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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 CRISPIN RODRIGUEZ, individually &
12 dba GROWER'S DIRECT PRODUCE,

13 Plaintiff,

14 v.

15 OLD WEST EXPORT, INC., a California
16 corporation and FRANCES MURILLO, an
17 individual,

18 Defendants.

Case No. 1:20-cv-00052-NONE-BAM

**ORDER RE STIPULATION FOR LEAVE
TO AMEND ANSWER**

(Doc. 23)

19 On February 22, 2021, Defendant Frances Murillo filed a motion for summary judgment.
20 (Doc. 19.) The hearing on the motion was continued to April 26, 2021. (Doc. 22.)

21 On April 13, 2021, the parties filed a stipulation to allow Defendant Frances Murillo to
22 amend her answer to include a defense for failure to execute, file, and publish a fictitious business
23 name statement to conform the pleading to the facts. (Doc. 23.) In their stipulation, the parties
24 agree that this defense has not been waived by Defendant Murillo. The parties also indicate that
25 if a refiling of the motion for summary judgment is required after the pleading is amended, then
26 there is good cause to amend the scheduling order to allow for the filing of Defendant Murillo's
27 motion for summary judgment after the amendment so that the motion may be decided and
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1 potentially avoid unnecessary litigation and trial. (*Id.*)

2 On the same date, the parties filed a stipulation to continue the April 26 hearing on
3 Defendant Murillo's motion for summary judgment. (Doc. 24.) The parties indicated that good
4 cause existed to continue the hearing based on Defendant Murillo's pending request for an order
5 allowing her to amend her answer to include a defense for failure to execute, file, and publish a
6 fictitious business name statement to conform the pleading to the facts. The parties also indicated
7 that Defendant Murillo's pending request to amend will narrow the issues presented for summary
8 judgment. (*Id.*) The district court granted the stipulation and continued the summary judgment
9 motion hearing to May 24, 2021. (Doc. 25.)

10 As to the parties' instant request, the deadline to amend the parties' pleadings expired on
11 October 2, 2020. (Doc. 18.) The stipulation to amend Defendant Murillo's answer does not
12 explain the delay in seeking leave to amend after expiration of the amendment deadline or
13 otherwise establish good cause for amendment of that deadline in the Scheduling Order.
14 Nevertheless, the Court recognizes that the proposed amendment may narrow the issues presented
15 for summary judgment and may potentially avoid unnecessary litigation. In the interests of both
16 judicial and party economy, and good cause appearing, the parties' stipulation for Defendant
17 Murillo to amend her answer to include a defense for failure to execute, file, and publish a
18 fictitious business name statement is HEREBY GRANTED. Within five (5) days after entry of
19 this order, Defendant Murillo shall file her amended answer. If the parties seek further
20 amendment of the Scheduling Order, any such request must be supported by good cause. Fed. R.
21 Civ. P. 16(b)(4).
22 IT IS SO ORDERED.

23 Dated: April 15, 2021

24 /s/ Barbara A. McAuliffe
25 UNITED STATES MAGISTRATE JUDGE
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